

1 MATTHEW D. POWERS (S.B. #212682)  
mpowers@omm.com  
2 SARAH H. TRELA (S.B. #293089)  
strela@omm.com  
3 O'MELVENY & MYERS LLP  
Two Embarcadero Center, 28th Floor  
4 San Francisco, CA 94111-3823  
Telephone: (415) 984-8700  
5 Facsimile: (415) 984-8701

6 KELSEY M. LARSON (S.B. #267982)  
klarson@omm.com  
7 O'MELVENY & MYERS LLP  
400 S. Hope Street  
8 Los Angeles, CA 90071-2899  
Telephone: (213) 430-6000  
9 Facsimile: (213) 430-6407

10 Attorneys for Defendant  
APPLE INC.

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

15 ZACHARY BOOK, DONALD COWART,  
16 JOHN MANNERS, LORI ASHBAUGH,  
17 JESSICA CHANDLER, MICHAEL GHEZZI,  
18 THOMAS GAROFALO, HOLLY  
19 FOURNIER, ADAM MILES, JONATHAN  
ROWE, LOUIS RAMOS, and JENNIFER  
ROBERTS, individually and on behalf of all  
others similarly situated.

20 Plaintiffs,

21 || V.

22 || APPLE INC..

23 || Defendant.

Case No. 5:14-CV-04746-EJD

**DECLARATION OF MATTHEW D.  
POWERS IN SUPPORT OF  
DEFENDANT APPLE INC.'S  
REQUEST FOR JUDICIAL NOTICE**

Hearing Date: April 2, 2015  
Time: 9:00 a.m.  
Judge: Hon. Edward J. Davila  
Courtroom: 4

## **DECLARATION OF MATTHEW D. POWERS**

I, Matthew D. Powers, hereby declare and state as follows:

3       1. I am an attorney admitted to practice before all courts of the State of California  
4 and in the Northern District of California, and I am a partner with O’Melveny & Myers LLP,  
5 counsel of record for Defendant Apple Inc. (“Apple”) in the above-captioned case. I submit this  
6 declaration based upon my personal knowledge and, if called as a witness, could and would  
7 testify to the matters set forth below.

8        2.        Attached hereto as **Exhibit A** are a true and correct copy of the versions of  
9        Apple's One Year Limited Warranty that were in effect at the time plaintiffs purchased the  
10       MacBook Pro computers at issue in this case. Those documents are also available online at  
11       <http://www.apple.com/legal/warranty/archived/20110101/mac-english.html> (before Oct. 4, 2011)  
12       and <http://www.apple.com/legal/warranty/archived/20121209/mac-english.html> (between Oct. 4,  
13       2011 and March 27, 2013).

14       3. Attached hereto as **Exhibit B** is a true and correct copy of the excerpts from  
15 Apple's website that are referenced in paragraphs 31 and 64 of Plaintiffs' First Amended  
16 Complaint. Those documents are also available online at  
17 <https://web.archive.org/web/20110302202246/http://www.apple.com/macbookpro/performance.html>  
18 and  
19 <https://web.archive.org/web/20111118133645/http://www.apple.com/macbookpro/performance.html>  
20

21       4. Attached hereto as **Exhibit C** is a true and correct copy of a press release Apple  
22 issued on July 20, 2011, noting the release of Apple's Mac OS X Lion operating system. This  
23 document is also available online at [https://www.apple.com/pr/library/2011/07/20Mac-OS-X-](https://www.apple.com/pr/library/2011/07/20Mac-OS-X-Lion-Available-Today-From-the-Mac-App-Store.html)  
24 Lion-Available-Today-From-the-Mac-App-Store.html.

25 | //

26 | //

27 //

1 I declare under penalty of perjury under the laws of the United States of America that the  
2 foregoing is true and correct to the best of my knowledge, information, and belief.

3 Executed this 29th day of January, 2015, at San Francisco, California

4

5 /s/ Matthew D. Powers

6 Matthew D. Powers

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28